IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20425 of 2004

Between:

Mohd. Faheemuddin S/o Mohd. Manzoor Ahmed Major, Lorry Owner, r/o 5-6-139/A Aghapura Hyderabad

....PETITIONER

AND

1 The Joint Transport Commissioner & Secretary, Regional Transport Authority, Hyderabad
2 The Registering Aauthority Hyderabad Central Zone RTA, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction and more particularly one in the nature of Writ of Mandamus declaring the impugned notices of the 2nd Respondent in Nos. 21899/5/B4/HC/03 dated 24-10-2003 and 21899/6/B4/H/03 dt 24-10-2003 demanding the petitioner to pay a sum of Rs. 3,60,600/- towards compounding fee for the alleged vague over-loading by petitioner's vehicles No. AP 09X 4345 and AP 09X 4645 as illegal, arbitrary against the principles of Natural justice, Violative of Articles 14, 19 and 21 of the Constitution of India and void and consequently set a side them.

Counsel for the Petitioner:MR.BATHINI PAPA RAO GOUD

Counsel for the Respondents: GP FOR TRANSPORT

The Court at the admission stage made the following :

ORDER:

The petitioner is the owner of a lorry AP-09-X-4645. The 2nd respondent issued a notice to the petitioner on 24.10.2003 informing him that he over loaded his vehicle. Therefore, he is directed to appear in person or through an Advocate or an Authorised representative to represent his case before the said Authority on 12.11.2003. If he fails to appear, it will be construed that there is no explanation to offer and the case will be decided on merits ex parte. It was further mentioned that the offence can be compounded under Section 86 of the M.V.Act by paying Rs.3,60,000/- towards compounding fee. The petitioner approached this Court after one year contending that when he approached the 2nd respondent for payment of the tax, the 2nd respondent is not receiving the tax and he is insisting the petitioner to pay the compounding fee. The language of the notice is different than the version given by the petitioner. If it is a fact that the 2nd respondent is insisting for payment of compounding fee, there shall be a direction to the 2nd respondent to pass appropriate orders on the notice dated 24.10.2003 without insisting for compounding fee and shall receive the tax due towards the vehicle. The petitioner is at liberty to pay the tax forthwith and participate in the enquiry by submitting an explanation if the matter is still pending.

Accordingly, the writ petition is disposed of.

05.11.2004.

MRKR

To

1 The Joint Transport Commissioner & Secretary, Regional Transport Authority, Hyderabad
2 The Registering Aauthority Hyderabad Central Zone RTA, Hyderabad

3. Two C.Cs to the Government Pleader for Transport, High Court Buildings, Hyderabad. (OUT)

4. Two C.D. copies.